

Standards Committee

Wednesday 24 July 2013 at 2.00 pm

To be held at the Town Hall, Pinstone Street, Sheffield, S1 2HH

Membership

Councillors Bryan Lodge (Chair), David Baker, Penny Baker, Roger Davison, Alan Law, Pat Midgley, Peter Price and Clive Skelton.

Co-opted Members

Councillor Malcolm Glover, Mr John Atkinson, Mr Alan Casbolt and Mr Edward Fleming.

PUBLIC ACCESS TO THE MEETING

Each local authority is required to draw up and adopt a Code of Conduct for its members. The main role of the Standards Committee is to promote and maintain high standards of conduct throughout the City Council and Parish and Town Councils in its area and to help members to follow the Code of Conduct. This Committee operates outside the main Council structures and the Chair and Deputy Chair are independent from the Council.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday, or you can ring on telephone no. 2734552. You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

Standards Committee meetings are normally open to the public but sometimes the Committee may have to discuss an item in private. If this happens, you will be asked to leave. Any private items are normally left until last.

If you require any further information please contact Dave Ross on 0114 273 5033 or email dave.ross@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**STANDARDS COMMITTEE AGENDA
24 JULY 2013**

Order of Business

- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest** (Pages 1 - 4)
Members to declare any interests they have in the business to be considered at the meeting.
- 5. Appointment of Deputy Chair**
To appoint a Deputy Chair of the Committee for 2013/14.
- 6. Minutes of Last Meeting** (Pages 5 - 6)
To approve the minutes of the meeting of the Committee held on 15 May 2013.
- 7. Review of Standards Procedures** (Pages 7 - 28)
Report of the Monitoring Officer.
- 8. The Role and Terms of Reference of the Committee** (Pages 29 - 34)
Report of the Monitoring Officer.
- 9. Dates of Future Meetings**
To note that meetings of the Committee will be held on the following dates at 2.00 p.m.:
 - 27 November 2013
 - 29 January 2014
 - 26 March 2014

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ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

New standards arrangements were introduced by the Localism Act 2011. The new regime made changes to the way that members' interests are registered and declared.

If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest** (DPI) relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Under the Council's Code of Conduct, members must act in accordance with the Seven Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership), including the principle of honesty, which says that 'holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest'.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life.

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- it relates to or is likely to affect any of the interests that are defined as DPs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously, and has been published on the Council's website as a downloadable document at [-http://councillors.sheffield.gov.uk/councillors/register-of-councillors-interests](http://councillors.sheffield.gov.uk/councillors/register-of-councillors-interests)

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Lynne Bird, Director of Legal Services on 0114 2734018 or email lynne.bird@sheffield.gov.uk

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Standards Committee

Meeting held 15 May 2013

PRESENT: Councillors Bryan Lodge (Chair), David Baker, Penny Baker,
Roger Davison, Alan Law, Pat Midgley and Clive Skelton

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1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. APPOINTMENT OF CHAIR

Resolved: That Councillor Bryan Lodge be appointed Chair of the Committee.

3. TO FIX DAY AND TIME OF MEETING

Resolved: That meetings of the Committee be held as and when required on dates and times to be determined by the Chair.

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Standards Committee Report

Report of: The Monitoring Officer

Date: 24 July 2013

Subject: Review of Standards Procedures

Author of Report: Lynne Bird

Summary:

The report updates the Standards Committee on the steps taken by the Council in relation to complying with the statutory obligations, reports on the Standards Complaints received and invites the Committee to review :-

- the Members' Code of Conduct
- the procedure for dealing with complaints
- the role of the Independent Person and the draft Protocol

Recommendations:

- 1 The Committee reviews the Members' Code of Conduct and the Procedure for Dealing with Standards Complaints.
- 2 The Committee reviews the complaints made.
- 3 The Committee discuss with the Independent Persons their role as set out in the draft Protocol.
- 4 The Committee to decide if any action is required in relation to the recommendations arising from the investigation in Appendix 4.

Background Papers:

Category of Report: Open

Statutory and Council Policy Checklist

Financial Implications
NO Cleared by:
Legal Implications
NO Cleared by:
Equality of Opportunity Implications
NO Cleared by:
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Relevant Cabinet Portfolio Leader
Not applicable
Relevant Scrutiny Committee if decision called in
Not applicable
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

REPORT OF THE DIRECTOR OF LEGAL AND GOVERNANCE

STANDARDS COMMITTEE 24 JULY 2013

REVIEW OF STANDARDS PROCEDURES

Introduction

The Localism Act abolished the pre-existing Standards Regime in July 2012. The Council now has a duty to promote high standards of members conduct, adopt a Code of Conduct and introduce a process for investigating complaints. The Act created a new system of Disclosable Pecuniary Interests for Members and removed compulsory sanctions for breach of the code. The Act also created an obligation to appoint one or more Independent Persons.

Purpose of Report

The report updates the Standards Committee on the steps taken by the Council in relation to complying with the statutory obligations, reports on the Standards Complaints received and invites the Committee to review :-

- the Members' Code of Conduct (Appendix 1 to the report)
- the procedure for dealing with complaints (appendix 2 to the report),
- the role of the Independent Person (Draft Protocol attached at Appendix 3 to the report)

Steps Taken

The Council has adopted a Code of Conduct and Procedure for making complaints which has been placed on the Council's website. The Council has set up a Standards Committee which includes 8 councillors and four non-voting co-optees (3 independent members and a representative of the Parish and Town Councils).

Independent Persons have been appointed after external advertisement. A Panel of three – Mr David Waxman, Mr Stuart Carvell and Mr Marvyn Moore were appointed to a joint panel with Barnsley City Council and The South Yorkshire Secretariat. Training has been given to all members on Disclosable Pecuniary Interests and a new register of Members Interests has been set up. All Members have provided Declarations of Interests.

Independent Persons (IPs)

The Council was fortunate to appoint three very experienced Independent Persons. The Chair of the Standards Committee has met with them to discuss their role. The Code and Procedure was discussed with the IPs and some amendments were suggested. It was agreed the IP would be available to all parties in a complaint. If appropriate, more than one IP may be involved to assist the different parties and the Monitoring Officer (MO).

The Independent Person when asked to be involved with the complaint will assist the MO in deciding what process should be followed and consider the complaint, including speaking to the parties. If the matter proceeds to the Standards Committee, the IP will prepare a short report and attend the Committee to give them their view of the complaint.

Standards Complaints Received

July 2012

Complaint made by a member of the public about the behaviour of an elected member at a public meeting.

The Monitoring Officer met with the complainant after investigating the background. There had been a misunderstanding as to who should attend the meeting owing to a notice of the meeting being sent out by a third party being incorrect. The Monitoring Officer met with the member of the public who accepted the explanation and apology from the Council and did not want to proceed further.

August 2012

A complaint was made by a member of a community group in relation to an elected member's conduct at a meeting and after the meeting. A representative of the complainant spoke to the MO and it was agreed that the matter be dealt with by the Leader. A related complaint was expected but was not received.

August 2012 – February 2013

A complaint was made by an elected member of Sheffield City Council against a member of a Parish Council. A counter-complaint was made by the Parish Councillor. An unsuccessful mediation meeting was held by the Monitoring Officer with both Councillors. An Independent Person advised the MO and elected member as to further conduct of this matter. The elected member decided not to proceed with the complaint.

January 2013

A general complaint was made about the conduct of an elected member at full Council. No individual who attended the Council made a complaint under the Standards Procedure.

January 2013

A number of complaints were made in relation to a member's conduct at a public meeting. Although there were slight differences in the accounts, generally the events were agreed. The Councillor acknowledged the remark should not have been made and was not accurate as to the reasons the potential closure had not been made public. She apologised for the remark. It was clear that it was not the remark but the decision making process relating to the potential closure which was the real subject

of the complaint. This was outside the Standards Process. The Monitoring Officer and Independent Person decided that the matter should not proceed to the Standards Committee.

A full report on the investigation, including possible recommendations to Council, is attached at Appendix 4 to the report.

February 2013

A complaint was received in respect of failure to disclose a DPI by a Parish Councillor. The member corrected the register. The complaint was withdrawn.

March 2013

A complaint was made by two elected members about statements made in the press and at Council. A Standards Committee is being arranged to consider the evidence in this case.

April 2013

A member of the public complained about members' conduct at a Council meeting. An apology was sent on behalf of elected members by the MO.

April 2013

An elected member complained about an inaccurate Tweet. The information was corrected and the apology was accepted.

June 2013

A member of the public complained about the attitude of an elected member at an event. Further clarification of the complaint has not been submitted and it has now translated into a Freedom of Information request.

July 2013

A complaint was received in relation to an elected member's conduct at an outside venue. Part of the complaint related to issues that were not the responsibility of the member. The member apologised for any unintended offence given.

Recommendations

- 1 The Committee reviews the Members' Code of Conduct and the Procedure for Dealing with Standards Complaints.
- 2 The Committee reviews the complaints made.
- 3 The Committee discuss with the Independent Persons their role as set out in the draft Protocol.

- 4 The Committee to decide if any action is required in relation to the recommendations arising from the investigation in Appendix 4.

The Monitoring Officer

SHEFFIELD CITY COUNCIL – MEMBERS’ CODE OF CONDUCT

Introduction

This Code applies to members of this authority when you act in your role as a Member and it is your responsibility to comply with the provisions of this Code. Members include all Elected Members and co opted members.

The Code sets out the standards which are required of all members of the authority in carrying out their duties, and in their relationships with the Council and its officers.

Members are a representative of this authority and the public will view you as such, therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code is based upon the following principles of public life which each member should comply with:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

This Code does not cover matters under the Localism Act 2011 where criminal sanctions will apply.

1. General Obligations

1.1 When acting in your role as a member of the authority you:

- (a) Must treat others with respect.
- (b) Must not conduct yourself in a manner which is contrary to the Council’s duty to promote and maintain high standards of conduct of members.
- (c) Must not bully or intimidate any person
- (d) Must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
 - (i) You have the consent of a person authorised to give it;
 - (ii) You are required by law to do so;
 - (iii) The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) The disclosure is –
 - (A) reasonable and in the public interest;
 - (B) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (C) you have consulted the Monitoring Officer prior to its release.
- (e) Must not prevent another person from gaining access to information to which that person is entitled by law.
- (f) Must not conduct yourself in a manner which would reasonably be regarded as bringing your authority into disrepute.
- (g) Must not use your position to improperly confer or secure an advantage or disadvantage to yourself or any other person.

- (h) Must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.
 - (i) Must comply with the Protocol for Member/Officer Relations and respect the impartiality and integrity of the authority’s statutory officers and its other employees.
- 1.2 When using or authorising the use by others of the resources of the authority you:-
- (a) Must act in accordance with the authority’s reasonable requirements including the requirements of the authority’s ICT policy and the policies listed at appendix A, copies of which have been provided to you and which you are deemed to have read;
 - (b) Must make sure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) Must have regard to any applicable Code of Publicity and take into account the guidance issued to Members on the use of social media.

2. Interests

2.1. *Disclosable Pecuniary Interests (DPI)*

You must -

- (a) comply with the statutory requirements to register, disclose and withdraw (to include leaving the room) from participating in respect of any matter in which you have a DPI.
- (b) ensure that your register of interests is kept up to date at least annually.
- (c) make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

2.2 *Other Interests*

2.2.1 In addition to the requirements relating to DPIs, if you attend a meeting at which any item of business is to be considered and you are aware that you have a personal interest in the matter which does not amount to a DPI you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

2.2.2 You have a personal interest where –

- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
- (b) it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

(“Meeting” means any meeting organised by or on behalf of the authority, including –

- any meeting of the Council, or a Committee or Sub-Committee of Council;
- any meeting of the Cabinet and any Committee of the Cabinet;
- in taking a decision as a Ward Councillor or as a Member of the Cabinet.)

(Note: A request for a dispensation to participate in the business of the authority where a Member has a Disclosable Pecuniary Interest must be submitted in writing to the Monitoring Officer in accordance with the guidance issued to Members on Declarations of Interests.)

2.3. *Gifts and Hospitality*

2.3.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.

2.3.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

- 2.3.3 This duty to notify the Monitoring Officer does not apply where the gift is accepted on behalf of the Council and does not apply to the role of Lord Mayor.

3. Bias

- 3.1. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you are not prohibited from participating in a decision in your political role as member. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 3.2. When making a decision, you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

4. Equalities

- 4.1 Members must ensure that they adhere to all related legal requirements, such as the Race Relations Act, Sex Discrimination Act, Disability Discrimination Act and the Human Rights Act.
- 4.2 Members must promote equality and inclusion by providing an environment free from harassment, discrimination, and victimisation and bullying and by treating people with respect, regardless of their age, disability, gender, race, religion/ belief, sexual orientation or marriage/ civil partnership status.
- 4.3 Members must act in accordance with the Council’s Equality Policy and Single Equality Scheme and the Council’s Harassment, Discrimination, Victimisation and Bullying Policy.
- 4.4 Members must have regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 to:
- Eliminate discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations.

APPENDIX A

LIST OF POLICIES

- Sheffield City Council Electronic Communications Policy
- Members’ ICT Usage Policy

APPENDIX 2

PROCEDURE FOR DEALING WITH STANDARDS COMPLAINTS

Complaints

- 1 Allegations of breaches of the Code of Conduct should be made in writing to the Monitoring Officer (MO) by any Elected Member, Officer, and partner of the Council or resident of Sheffield.
- 2 The MO will decide if this allegation is a potential breach of the code. If the matter complained of does not constitute a potential breach of the code the MO will inform the complainant.
- 3 If the MO believes there may be a potential breach of the Code they may take the following actions in consultation with the Independent Person without determining if an actual breach has taken place:-
 - Take such steps as they think appropriate to prevent a future breach of the Code including training, guidance, introducing or amending policies/protocols.
 - Ask the Whips to address the issue raised within their political parties or with an individual Member.
 - Mediate between the parties involved to resolve the issues.
 - Obtain further information from the complainant or other relevant individual/body.
- 4 The MO, after taking the above steps as appropriate, will decide, in consultation with the Independent Person, if the matter should be investigated.
- 5 The MO will take into account when deciding if the matter should be investigated :-
 - The seriousness of the allegation.
 - The effectiveness of the remedies available.
 - If a significant amount of time has elapsed since the events which are the subject of the complaint.
 - The benefits of an independent consideration of the allegation.
 - If the allegation relates to a cultural or recurring issue relating to standards within the Council.

- If the matter should be dealt with by some other method, e.g. police investigation.
 - If complaints have been made about the Member relating to similar issues in the past.
 - The impact on the complainant or reputation to the Council caused by the conduct.
 - If the complaint appears to be trivial or vexatious or is part of a series of complaints from the complainant.
 - The conduct occurred during political debate or could be regarded as a political expression of views or opinion
- 6 It is expected that only a minority of potential breaches will be referred to the Standard Committee.

Procedure for Investigations

7. If the matter is to be investigated, the complainant and subject of the complaint will be informed by the MO. The Elected Member will be given full details of the allegation and have 14 days to submit a response, witness statements and any relevant information. The Member will be asked to express a preference for a written or oral hearing should the matter be referred to the Standards Committee.
8. The MO will supply the complainant with copies of any documents produced in accordance with paragraph 3 or 7 above. The complainant may provide a written response and further evidence if they choose to do so. They must respond within 14 days of receipt of the information. The MO or Independent Person may advise and assist either party with the written information to be supplied.
9. The Independent Person and the MO will consider the complaint and responses to decide if any further information should be obtained by the MO or if an internal or independent investigation is required on all or any aspect of the complaint.
10. The MO in consultation with the Independent Person shall decide when the investigation process set out in 7 to 9 above is complete and if evidence of a breach is found. If no evidence is found no further action will be taken and the MO will inform the complainant.
11. Where the investigation finds evidence of failure to comply with the Code of Conduct, the MO, in consultation with the Independent Person, may attempt a local resolution, avoiding the necessity of a hearing by identifying other appropriate remedial action. It would only be appropriate for the MO to agree a local resolution after consultation with the Independent Person and subject to a summary report for

information being submitted to the Standards Committee.

Standards Committee

12. If evidence of a breach is found on investigation and the matter cannot be resolved, the MO will refer the matter to the Standards Committee. The Standards Committee will meet within two months of the referral to consider the allegation and make clear findings as to the facts on the matter and whether, in its opinion, a breach of the Code of Conduct has occurred. This decision will be made upon the papers submitted if the Member agrees. If the member does not agree to a paper consideration he/she will be asked to attend the Standards Committee to give oral representations and present their evidence. The Member may, with the consent of the Committee obtained prior to the meeting, present witnesses.

The Committee will meet in public unless the Chair decides all or some of the meeting should be held in private subject to the Access to Information requirements. The MO will attend the meeting and can provide advice to the Committee.

13. The Committee shall decide if a breach of the Code has taken place and what sanction, if any, it should recommend. The Committee will give reasons for its decision.
14. The MO will inform the complainant and the Member of the outcome in writing within 7 days.
15. The findings and decision of the Standards Committee will be publicly available on the Council's website and copies will be supplied to the MO, Chief Executive and Member concerned, Leaders of the political party concerned, the Whips and the complainant.

Remedies

16. If the Standards Committee finds a breach of the Code has occurred they may make any of the following recommendations and may specify to whom they wish them to be directed:
 - Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council or Shadow Portfolio responsibilities
 - Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - Instructing the Monitoring Officer to arrange training for the member;

- That policies/procedures are amended;
- That a briefing/information note be issued;
- That an apology be given;
- That the member is censured in writing and a copy of the letter is published on the Council's website.

Appeals

17. It is not intended that an Appeal procedure would be used as a matter of course. If, however, the Standards Committee Chair and MO agree that the nature of the decision may have a significant impact on the member against whom findings are made or has important implications for the Council as a whole, they may allow an appeal to the Standards Committee of another authority with whom a reciprocal agreement exists. The views of one of the IPs not involved in the case would be taken into account in any appeal. If no suitable Committee is available the appeal will be dealt with by the Council's Chief Executive.

Reports

18. A bi-annual report will be presented to Members of the Standards Committee on the complaints received and how they were dealt with. An annual report will be prepared for Council in relation to all Standards Complaints.

July 2013

APPENDIX 3

DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON

Introduction

The Localism Act 2011 introduced a new system of members' standards in local government. This included the duty under section 27 of the Act to appoint an Independent Person. The council has already decided upon the Role Description for the post holder. This new role requires the person appointed to relate to the Council's Standards Committee and also to the Monitoring Officer. The purpose of this protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Person will interact within the new Member Standards system. The protocol is not seeking to be prescriptive but rather to set out the general principles which all parties will use their best endeavours to comply with.

The Council has appointed three Independent Persons. If appropriate, more than one Independent Person may be involved to assist the different parties and the Monitoring Officer.

1. Contact with the Independent Person

- (i) A Member of the District Council or of a Town or Parish Council who is the subject of a complaint should only contact the Independent Person if a formal complaint has been made in writing to the Council. The Monitoring Officer will notify the Independent Person of all formal complaints. If a Member contacts the Independent Person prior to a formal complaint being lodged, the Independent Person will refer them to the Monitoring Officer.
- (ii) The Independent Person should not discuss a potential or actual complaint directly with the potential complainant or complainant and shall refer the complainant to the Monitoring Officer to speak directly to any complainant.

2. Considering written allegations

- (i) Where the Monitoring Officer is acting under delegated powers in considering written allegations, the Monitoring Officer will seek the views of the Independent Person before reaching a decision on whether any further action should be taken on a written complaint.
- (ii) When issuing the decision letter, the Monitoring Officer will record that the Independent Person has been consulted and that their views have been taken into account. Where the view of the Monitoring Officer and Independent Person differ, the Monitoring Officer will record the reasons for following a

particular course. The letter will make it clear that it is the Monitoring Officer and not the Independent Person who is the decision maker.

- (iii) Where the Monitoring Officer refers a written allegation to the Standards Committee rather than determining whether any further action should be taken acting under delegated powers, the Committee shall have discretion as to whether or not to consult the Independent Person on the matter before reaching their decision.
- (iv) The Monitoring Officer may ask the Independent Person to support her/him in efforts to try to resolve complaints informally where the basis of the complaint appears unsubstantial or otherwise does not appear to warrant a formal investigation or where an alternative route to formal investigation would appear to offer a better means of resolving the matter e.g. where it appears that complaints have been made on a tit for tat basis or where a Town or Parish Council appears to have become dysfunctional.

3. Relationship with the Standards Committee

- (i) The Monitoring Officer may consult the Independent Person where appropriate on recommendations to the Standards Committee particularly where these relate to the procedures for handling complaints.
- (ii) The Independent Persons shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend the Committee as advisors.
- (iii) Where a matter has been referred to the Standards Committee for determination, the Committee must seek the views of the Independent Person before reaching its conclusions. The Independent Person may attend the Committee to convey their views or may alternatively submit their views in writing to the Committee. The Independent Person's view will be recorded in any decision notice and, where those views do not reflect the final outcome, reasons will be given. The Independent Person would not attend any pre-hearing meeting of the Committee.

4. Right of Access to Documentation

The Independent Person shall have a right of access to such relevant files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

5. Confidentiality

- (i) The Independent Person shall respect the confidentiality of any documents provided to them and shall be responsible for their safe custody.
- (ii) The Independent Person should respect the general confidentiality of the Council's Standards process and should not proactively make any comments to the media on any matter relating to any matters relating to the Council's Standards business. Any requests for comments from the media should be referred in the first instance to the Monitoring Officer who may refer these to the Chair of the Standards Committee, as appropriate.

July 2013

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Appendix 4

Summary Report on Standards Complaint relating to Stocksbridge Leisure Centre

Outline of Complaint

Complaints were received from 4 participants in a public meeting held to discuss the proposed closure of Stocksbridge Leisure Centre. A Councillor was alleged to make a comment to the effect that the potential closure had not been made public earlier owing to the “political mischief” which would have been caused. There were underlying issues in relation to the decision making process, consultation and Equality Impact Assessments which were not within the scope of the Standards Procedure and subsequently gave rise to a Judicial Review being issued.

Investigation of Report

The complainants were informed by the Monitoring Officer of which matters could be considered under the Standards Process and they were invited to specify which provisions of the code had been breached and to the outcome they sought. The Independent Person and Monitoring Officer met to consider how to proceed and agreed to offer to meet all parties. Two complainants attended a meeting at which the subject of the complaint and the matters which fell outside the complaint were discussed at length. It was agreed the complainants would provide further information. They failed to do this and no further communication was received from them. One complainant withdrew. The Monitoring Officer and Independent Person also met with the Councillor to obtain her views and account of events.

Findings

Although there were slight differences in the accounts generally the events were agreed. The Councillor acknowledged the remark should not have been made and was not accurate as to the reasons the potential closure had not been made public. She apologised for the remark. It was clear that it was not the remark but the decision making process relating to the potential closure which was the real subject of the complaint. This was outside the Standards Process. The Monitoring Officer and IP decided that the matter should not proceed to the Standards Committee.

Recommendations

The Independent Person and Monitoring Officer make the following recommendations arising from the investigation

1. The City Council should develop closer working relationships with the Parish Councils to enable plans for their areas to be discussed and allows the Parish Council to be involved in future plans .

2. The Parish and City Council should attempt to agree a communications strategy in relation to future plans.
3. The Council should review the timing and nature of its consultation with the community on possible service cuts arising from budget restrictions. Where possible the consultation should take place before the Council's Annual Budget is made public as this is perceived by the public as the Council's decision to reduce or stop the service.
4. The Council should provide information in relation to the decision making process in particular the relationship between the annual budget and individual decisions relating to services and the role of Cabinet Members.
5. The Council should consider using Independent Advisors similar to Independent Persons to provide an external overview of the Council's communication and consultation plans.



Standards Committee Report

Report of: The Monitoring Officer

Date: 24 July 2013

Subject: Role and Terms of Reference of the Committee

Author of Report: Dave Ross

Summary:

To review the role of the Committee in relation to promoting Standards.

Attached are extracts of the Council's Constitution.

Recommendations:

That members review the role and terms of reference of the Committee.

Background Papers:

Category of Report: Open

Statutory and Council Policy Checklist

Financial Implications
NO Cleared by:
Legal Implications
NO Cleared by:
Equality of Opportunity Implications
NO Cleared by:
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Relevant Cabinet Portfolio Leader
Not applicable
Relevant Scrutiny Committee if decision called in
Not applicable
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

ROLE AND TERMS OF REFERENCE OF THE STANDARDS COMMITTEE

Article 9 of the Constitution

9.01 Standards Committee

The Council (in this Article 'the City Council') will establish a Standards Committee to determine complaints under the Code of Members' Conduct referred to it by the Monitoring Officer and promote high standards of Councillor conduct.

9.02 Composition

(a) **Committee Membership.**

The Standards Committee will comprise not more than eight Members of the City Council with proportionality disapplied (5 Labour and 3 Liberal Democrat members, with one Member from each Party to be present at each meeting) and, on an interim basis until guidance is issued by the Government, the membership will also include up to 5 non-voting co-opted members (the 4 existing Independent Members of the Standards Committee and 1 representative of the three Parish/Town Councils);

(b) **Chair and Deputy Chair.**

The Chair and Deputy Chair of the Committee and of its Sub-Committees shall be appointed by the Committee or Sub Committee; and

(c) **Quorum.**

The quorum for meetings of the Committee and any of its Sub-Committees shall be three and must include representatives of two political parties

9.03 Role and Functions

The Standards Committee and its Sub-Committees will have the terms of reference set out in Part 3 of this Constitution. The Committee will exercise the following role and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, Co-opted Members;
- (b) advising the Council on the adoption or revision of the Councillors' Code of Conduct and Protocols relating to Councillor and Officer behaviour;

- (c) discharging, the functions of hearing complaints against Councillors concerning the Councillors' Code of Conduct referred by the Monitoring Officer;
- (d) the exercise of the above functions in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils.

STANDARDS COMMITTEE

Terms of Reference

- (a) Promoting and maintaining high standards of conduct by Councillors, Co-opted Members Representatives on Committees and Sub-Committees.
- (b) Assisting Councillors, Co-opted Members and Representatives to observe the Councillors' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Councillors' Code of Conduct and Protocols relating to Councillor and Officer behaviour.
- (d) Monitoring the operation of the Councillors' Code of Conduct.
- (e) Advising, training or arranging to train Councillors, Co-opted Members and Representatives on matters relating to the Members' Code of Conduct.
- (f) Discharging the functions of, hearing complaints against Councillors concerning the Members' Code of Conduct referred to them by the monitoring Officer.
- (g) The exercise of the above functions in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils.
- (h) Advising the Council on the adoption and revision of its Whistle-blowing Policy and monitoring the operation of that Policy.
- (i) Monitoring and reviewing procedures relating to gifts, hospitality and personal interests, for Councillors and officers.
- (j) Monitoring the Council's response to complaints to the Ombudsman.
- (k) Undertaking such other functions as the Council may delegate to the Committee.

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